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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,600	10/03/2005	John Graeme Houston	9931-008US	7535

22897 7590 09/08/2006

DEMONT & BREYER, LLC
SUITE 250
100 COMMONS WAY
HOLMDEL, NJ 07733

EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/535,600	Applicant(s) HOUSTON ET AL.	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/19/05; 8/8/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kuhlmann (DE 597,472).

Claims 1, 6-8, and 11 are rejected under 35 U.S.C. 102(B) as being clearly anticipated by Schauburger (AT 134,543).

Claims 1, 6, and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ziegler (DE 2,510,169).

Claims 1-8, and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Simon. The patent to Simon discloses the recited helical formation for a conduit comprising an elongate member (fig. 6) which is used with tubes comprising an inwardly extending portion 12 extending along the length of the elongate member from the internal side walls where the distance from the longitudinal axis of the tube is seen to be about 50% of the distance, the conduit is seen to be circular in cross section, the

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extending portion extends inwardly a percentage of the radius, there are two or more inwardly extending formations arranged in side by side relation extending the length of the member, the helical formation is mounted to the wall and is in fact part of the wall, where such is used for flow where the use of such as a graft or stent are considered merely intended use where the structure is capable of use in a body.

Claims 1-6, and 8-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Buscemi. The patent to Buscemi discloses the recited helical formation for a conduit comprising an elongate member (fig. 4) which is used with tubes such as vessels 10 comprising an inwardly extending portion 60 extending along the length of the elongate member from the internal side walls where the distance from the longitudinal axis of the tube is can include up to 50% depending upon the size of the vessel the member is provided in where such would be intended use, the conduit is seen to be circular in cross section, the extending portion extends inwardly a percentage of the radius, the helical formation is mounted to the wall and is a separate member inserted in the conduit, where such is used as a graft or stent in a blood vessel.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawyer. The patent to Sawyer discloses the recited helical formation for a conduit comprising an elongate member which is used with tubes such as vessels 110 comprising an inwardly extending portion near 150 or 160 extending along the length of the elongate member from the internal side walls where the distance from the longitudinal axis of the tube is can include up to 50% depending upon the size of the vessel the member is provided in where such would be intended use, the conduit is seen to be circular in cross section,

the extending portion extends inwardly a percentage of the radius, the helical formation is mounted to the wall and is a separate member inserted in the conduit, there are two or more extending formations provided side by side, where such is used as a graft or stent in a blood vessel.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Jansen. The patent to Jansen discloses the recited helical formation for a conduit comprising an elongate member 12 (fig. 2) which is used with tubes such as 10 comprising an inwardly extending portion 22 extending along the length of the elongate member from the internal side walls where the distance from the longitudinal axis of the tube is can include up to 50% as seen in the figures, the conduit is seen to be circular in cross section, the extending portion extends inwardly a percentage of the radius, the helical formation is mounted to the wall and is a separate member inserted in the conduit, where such is removable, there are at least two or more formations in side by side relation.

Claims 1 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kojima. The patent to Kojima discloses the recited helical formation for a conduit comprising an elongate member 19 which is used with tubes such as 16 comprising an inwardly extending portion 23,24 extending along the length of the elongate member from the internal side walls where the distance from the longitudinal axis of the tube is can be seen in figure 7 to extend toward the longitudinal axis between 10-80%, the conduit is seen to be circular in cross section, the extending portion extends inwardly a percentage of the radius, the helical formation is mounted to the wall and is a separate

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member inserted in the conduit, where such is provided with at least two side by side formations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9, 10, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhlmann in view of Tayside (EP 1,254,645). The reference to Kuhlmann discloses all of the recited structure with the exception of forming the insert as a formation that is a removable insert with two or more extending formations that is used as a stent or graft. The reference to Tayside discloses the recited insert formed as an insert where at least two helical extending formations 12 extend in from an insert 11, and such is used as an insert into a blood vessel such as grafts and stents. It would have been obvious to one skilled in the art to modify the extending member in Kuhlmann to be formed as an insert with at least two extending members formed therein and to use such as a graft or stent as suggested by Tayside as such are equivalent flow modifiers used in conduits and would provide a structure that would be less likely to deform thereby lessening its usefulness.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Higley, Hirsch, Takeda, and McGuinness disclosing state of the art flow modifiers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH